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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,504	03/19/2004	Rolf Dietrich	178.0059	7675

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EXAMINER

BELLINGER, JASON R

ART UNIT	PAPER NUMBER
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3617

DATE MAILED: 03/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/804,504

Applicant(s)

DIETRICH, ROLF

Examiner

Jason R Bellinger

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27-28 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 4-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 4-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Specification

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "comprises", "means", and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

2. The disclosure is objected to because of the following informalities: Line 24 of page 5 through line 2 of page 6 is a copy of claim 9. Lines 3-10 of page 6 are a copy of claim 1. Claim language should not be relied upon to describe the invention.

Furthermore, the aforementioned sections of the specification are redundant, as the subject matter therein has been previously described in the specification. Therefore the aforementioned sections of the specification should be removed.

Appropriate correction is required.

Claim Objections

3. Claim 1 is objected to because of the following informalities: The phrase --, and-- should be inserted between the term "segment" and "having" in line 5 of the claim for grammatical clarity. Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 1, and 4-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stoler in view of Yamada. Stoler shows a spoke 1 for a tensioned spoke wheel, wherein the spoke 1 includes a shaft having first and second ends. A first segment (3-4) of the shaft is adjacent to the first end, and has a first given cross-sectional area. A second segment 2 of the shaft is adjacent to the first segment (3-4), and also extends towards the second end of the shaft. The second segment 2 has a cross-sectional area that is less than the given cross-sectional area of the first segment (3-4).

The first segment includes a threaded portion 4 and an unthreaded portion 3 adjacent to the threaded portion, and located between the threaded portion 4 and the second end of the shaft.

The cross-section of the spoke 1 is generally circular. The spoke 1 further includes a third segment 5, located between the second segment 2 and the second end of the spoke. The third segment 5 has a cross-sectional area greater than that of the second segment 2.

While not specifically stated, it is well known in the art that the major diameter of the threaded portion 4 of the first segment may be greater than the diameter of the unthreaded portion 3 of the first segment, dependent upon the method in which the thread is formed. For example, cold rolling the thread would cause the major diameter

of the threaded portion top have a larger diameter than the unthreaded portion, due to the fact that no material is removed when forming the threads.

The cross-section of the second segment 2 of the spoke 1 is sufficiently small that it is subject to rotation when tension is applied by a spoke nipple or nut attached to the threaded portion 4 of the spoke 1. This rotation occurs due to the fact that the third segment 5, which is adjacent the second segment 2, is fixedly and non-rotatably connected to a rim, thus increasing the tension of the spoke.

Stoler does not show the unthreaded portion of the spokes being shaped to form at least two, opposed torque-transmitting surfaces. Yamada teaches the use of a spoke13a having the surface 14a of a part of the unthreaded end of a first segment shaped to form at least two opposed, flat, torque-transmitting surfaces 15. The opposed flat surface 15 of the first segment of the spoke shaft is formed by pressing the surface between a pair of parallel tool surfaces to permanently deform the unthreaded portion into the two torque transmitting surfaces.

Therefore from this teaching, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the unthreaded portion of the first segment of the spokes of Stoler with a pair of opposed torque-transmitting surfaces as taught by Yamada for the purpose of providing an easily located surface of attaching a tool, thus simplifying the process of tensioning the spokes when attached to a wheel.

Stoler as modified by Yamada shows a spoke where the unthreaded portion 3, which includes the two, opposed torque-transmitting surfaces 15, has a sufficiently large

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cross-section and the shaped portion 15 is sufficiently close to the threaded portion 4 that preventing rotation of the shaped portion 15 of the first segment (3-4) prevents rotation of the spoke with a spoke nipple.

Response to Arguments

6. Applicant's arguments filed 27-28 December 2004 have been fully considered but they are not persuasive. The Applicant argues that the references are silent about rotation caused by tension applied to the spoke by a spoke nipple. However, it is an inherent fact that the second segment 2 of the spoke would rotate when tension is applied by a spoke nipple at the threaded end 4, due to the fact that the third segment 5 of the Stoler reference is connected to a rim, and is therefore fixed in place and incapable of rotating.

The Applicant also argues that the Yamada reference does not disclose that surface 14a has opposed flat torque transmitting surfaces. The Applicant argues that this surface 14a only serves as a reflective surface. However, while the Yamada reference does not specifically disclose that the flattened portion of the spokes with a reflective coating thereon also acts as torque transmitting surfaces, one of ordinary skill in the art would realize that these flat surfaces have the inherent property of being capable of transmitting torque to the spoke when gripped by a tool. Therefore, the flatten surfaces 14a of Yamada are capable of transmitting torque, and thus meet the limitations of the claims.

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7. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason R Bellinger whose telephone number is 703-308-6298. The examiner can normally be reached on Mon - Thurs (9:00-4:30).


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Morano can be reached on 703-308-0230. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jason R Bellinger
Examiner
Art Unit 3617



jrb



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